

Substandard Housing Inspections & Reports

4.1 PURPOSE AND SCOPE

This policy establishes the guidelines for satisfying those requirements specified in Health & Safety Code ("HSC") 17970.5 by members of the Mendocino County Code Enforcement Division ("the Division"). This policy is intended to be used in conjunction with all other adopted Policy and Procedures and to guide the Division's investigation and/or enforcement officers on the appropriate procedures to ensure compliance with HSC Section 17970.5.

The Division, as an authorized local government enforcement agency for the County of Mendocino, will serve as the primary responders to complaints of substandard housing to which the tenant (or their representative) is requesting a Substandard Housing Inspection Report. The Division will receive, log, and carry out all necessary inspections when requested by a qualifying requester of such inspection.

A qualifying requester, as outlined by HSC 17970.5 can include a tenant, a person requesting on behalf of an affected tenant and/or an affected tenant's private attorney.

The Division shall respond in a timely manner to such inspection and aligned with the Division's current set of Board of Supervisor's approved Code Enforcement Division priorities. As such, Division staff shall respond as soon as possible and no later than one week upon receipt of the request.

Division staff shall perform a complete inspection utilizing the approved Substandard Housing Inspection Report form and provide copies to the affected tenant and all other likely affected tenants within the same multi-unit structures.

4.2 BACKGROUND

On September 28, 2021, Governor Gavin Newsom signed Assembly Bill 838 ("AB - 838") into law. The September 1, 2021, Assembly Floor Analysis writes:

"This bill seeks to ensure that tenants can receive free and timely inspections of their rental unit and the bill also explicitly prohibits a local government from placing conditions on an inspection of rental housing. It is understandable that some renters may be hesitant to raise health and safety concerns to their landlord or property manager due to fears of retaliation or due to existing disputes about other matters. This bill seeks to protect renters by explicitly prohibiting local governments from placing conditions on the inspection of a rental unit and guaranteeing tenants a free and timely inspection in response to a complaint.

Additionally, the bill seeks to ensure other parties are given notice of violations and provides that, if a tenant submits a complaint to a city or county, the local government is required to cite any violations and provide free copies of inspection reports to the individual who submitted a complaint and others who may be impacted. In order to make sure that inspections and citations occur in a timely manner, AB 838 also requires the local government to act as quickly as they would when conducting a final building inspection. Finally, the bill prohibits a local government from refusing to communicate with a tenant in order to avoid complying with the inspection requirements."

4.3 PROCEDURES

Meeting Requirements for HSC Section 17970.5 – Substandard Housing Inspections

When a complaint is received by the Code Enforcement Division for concerns of substandard housing conditions, the complaint shall be catalogued into the records management system by the assigned staff. Staff shall follow all standard practices during this intake process, as outlined in Policy & Procedures #1: Case Management Structure Policy.

If Intake Staff identifies that the complaint submitted is from a tenant, resident, occupant, or an agent of a tenant, resident, or occupant, regarding a potential violation of HSC Section 17920.10 ("Lead Hazard") or regarding a building being substandard pursuant to HSC Section 17920.3 ("Substandard Building"), Intake Staff shall notify the officer assigned to the role of pre-investigation.

Pre-Investigation

The pre-investigating officer shall expeditiously complete all standard practices of the pre-investigation role, as outlined in Policy & Procedures #1: Case Management Structure Policy and Procedures. This officer shall then assign the complaint to an officer assigned to the role of investigation, including assignment of the current applicable priority level established by the Board of Supervisors (which is priority #1 as of this policy's writing).

Investigation

The investigating officer shall review the complaint and verify that:

- (1) the complaint alleges one or more substandard conditions under the criteria of HSC Section 17920.10 and/or HSC Section 17920.3, AND
- (2) the complaint was submitted by a tenant, resident, or occupant AND that, within the past 180 days, that same complainant has not submitted a complaint about the same property that the Chief Building Official or their designee reasonably determined, after inspection, was frivolous or unfounded.

If the above criteria are both determined to be true, the investigating officer shall contact the tenant, resident, or occupant and perform (with their consent) an inspection pursuant to subdivision (a) of HSC Section 17970.5, at least as promptly as that county conducts an inspection in response to a request for final inspection pursuant to Section 110 of the California Building Code, *but no more than one business week, unless agreed to by the tenant, resident, or occupant.*

The Investigating Officer shall not unreasonably refuse to communicate with a tenant, resident, occupant, or the agent of a tenant, resident, or occupant regarding any matter covered by this section.

The Investigating Officer shall do all of the following steps:

- (1) Inspect the building(s) or portion thereof intended for human occupancy, including any dwelling unit, guestroom, or suite of rooms, or the premises on which it is located, for all conditions that may be in violation of HSC Section 17920.10 or that may be substandard pursuant to HSC Section 17920.3. After the inspection is complete, the investigating Officer shall document his or her findings in the records management system.
 - a. If, upon the initial inspection, it is determined there is a likelihood that substandard conditions exist within a multi-unit residential structure, the Investigating Officer shall also complete procedures outlined in Policy #5: Multiple Unit Substandard Housing Inspection Reports and Enforcement
- (2) Prepare and submit to their Direct Supervisor, a determination request to the appropriate official (or their designee) in the event there are conditions that require a determination by a Health Officer as required under HSC Section 17920.3 (a)(12), HSC Section 17920.3 (a)(13), or if necessary, requires the expert review and determination by the Chief Building Official in order to determine if the conditions rise to the level of being deemed as substandard.
 - a. The Investigating Officer shall include with their request, a detailed description and locations of all observations relevant to the determination needed, including but not limited to: supporting documentation and/or photographs.
 - b. The Direct Supervisor receiving the determination request shall review the request for appropriateness and details provided to ensure all relevant information has been included in the request.
 - c. The Direct Supervisor, upon approving the drafted determination request, shall forward the determination request to the Code Enforcement Manager to send to the appropriate official, unless otherwise authorized by the Code Enforcement Manager to submit directly to the official.
 - d. The Investigating Officer shall wait until all responses are received prior to determining if such conditions in question are deemed "substandard."

- (3) Document any violations of HSC Section 17920.10 that would be discovered based upon a reasonably competent and diligent visual inspection of the property and identify any building or portion thereof intended for human occupancy, including any dwelling unit, guestroom, or suite of rooms, or the premises on which it is located, that is determined to be substandard pursuant to HSC Section 17920.3, as applicable. The documentation shall be included in the Substandard Housing Inspection Report form as described in subdivision (d). The Investigating Officer shall articulate all conditions deeming the building or structure substandard, including those determined by appropriate officials through a submitted determination request process.
- (4) Review the completed Substandard Housing Inspection Report form for accuracy and appropriateness with their Direct Supervisor. The Investigating Officer shall be prepared to articulate the facts of the case and their recommendation as to whether further enforcement action is required. The Direct Supervisor shall complete a review and provide final approval of the inspection report prior to its issuance and release of copies.
- (5) Provide free, certified copies of the completed Substandard Housing Inspection Report form and citations issued pursuant to this section (if any) to the complaining tenant, resident, occupant, or their agent. If the inspection reveals a condition potentially affecting multiple tenants, residents, or occupants, including, but not limited to, conditions relating to the premises, common areas, or structural features, then the investigating officer shall provide free copies of the Substandard Housing Inspection Report form and citations issued to all potentially affected tenants, residents, occupants, or their agents.
- (6) Advise the owner or operator of each substandard condition that requires corrective action to resolve the substandard condition(s) and schedule a reinspection to verify correction of the violations, if applicable. The property owner or operator shall be advised of all remedies that will require building permits, to ensure additional violations are avoided to resolve the substandard condition. Provide a timeline of no more than fourteen (14) days for the property owner or operator to make diligent efforts to resolve the substandard conditions and scheduling of the reinspection. A one-time extension may be granted by the Investigating Officer, if there is sufficient evidence of delay outside of the property owner or operator's control, when demonstrating that diligent effort has been taken to resolve the substandard condition(s).
- (7) If further enforcement action is determined to be warranted, then the case shall be assigned to the officer within the Enforcement role. See *Enforcement* section of this procedure for additional steps.

Enforcement

In circumstances where there is a confirmed substandard condition resulting from illegal, non-permitted structural modifications (including electrical, plumbing or mechanical) to the structure, the complaint shall be transferred to an Enforcement Officer as soon as possible. The Enforcement Officer shall attempt to contact the responsible party and require the remediation of the non-permitted structural modifications causing the substandard condition within a reasonable, but specific timeframe. The Enforcement Officer shall issue a Notice of Violation (NOV), requiring remediation of non-permitted modifications through the building permit process, consistent to the process of the Case Management Structure, if voluntary compliance is not achieved within a reasonable timeframe determined by the Division.

4.4 INTERPRETATIONS AND CONFLICTS

This policy and procedure has been created due to requirements placed upon local government jurisdictions by the State of California. Therefore, the Director of Planning and Building Services, or their approved designee, shall have the authority for the interpretation, modification, and ultimate discretionary decisions of the Division's implementation of this policy in the event there is an identified conflict.
